

George E. Ridge
 Pro Hac Vice Application Pending
 COOPER RIDGE & LANTINBERG, P.A.
 200 West Forsyth Street, Ste. 1200
 Jacksonville, FL 32202
 (904) 353-6550
 (904) 353-7550 (fax)

Cory E. Friedman (CF 5946)
 123 East 75th Street
 New York, NY 10021
 (212) 879-9751
 (212) 879-2595 (fax)

Attorneys for Bert C. Roberts, Jr.

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

-----x	:	
	:	
SR INTERNATIONAL BUSINESS	:	
INSURANCE COMPANY,	:	
	:	
Plaintiff,	:	
v.	:	
	:	
MCI, INC., BERNARD EBBERS,	:	04 Civ. 04567 (RCC)
SCOTT D. SULLIVAN, BETTY L.	:	
VINSON, TROY M. NORMAND, BUFORD	:	ECF CASE
YATES, JR., SUSAN G. BELL,	:	
CLIFFORD ALEXANDER, JR., JAMES	:	
C. ALLEN, JUDITH AREEN, CARL	:	
J. AYCOCK, RONALD R. BEAUMONT,	:	
FRANCESCO GALESI, STILES A.	:	
KELLETT, JR., GORDON S. MACKLIN,	:	
DAVID F. MYERS, JOHN A. PORTER,	:	
BERT C. ROBERTS, JR., ESTATE	:	
OF JOHN W. SIDGMORE, LAWRENCE	:	
A. TUCKER, JUAN VILLALONGA, MAX	:	
E. BOBBITT, AND JOHN DOES 1-50,	:	
	:	
Defendants.	:	
	:	
-----x	:	

**NOTICE OF BERT C. ROBERTS, JR.'S MOTION
FOR REASSIGNMENT OF THIS CASE**

PLEASE TAKE NOTICE that, upon BERT C. ROBERTS, JR.'S MOTION FOR REASSIGNMENT OF THIS CASE, defendant Bert C. Roberts, Jr. will move this Court on submission for an order, pursuant to Rule 22 of the Rules for the Division of Business Among District Judges of this Court, for an order reassigning this case to the Honorable Denise L. Cote.

PLEASE TAKE FURTHER NOTICE that, all opposing papers, if any, including any memoranda of law, shall be served upon the undersigned within fourteen (14) days of service of Bert C. Roberts, Jr.'s motion papers.

Dated: June 28, 2004

S/

George E. Ridge
COOPER, RIDGE & LANTINBERG, PA
Pro Hac Vice Admission Pending
200 W. Forsyth St., Ste. 1200
Jacksonville, FL 32202
(904) 353-6555
(904) 353-7550 (fax)

S/

Cory E. Friedman (CF 5946)
123 East 75th Street
New York, NY 10021
(212) 879-9751
(212) 879-2595 (fax)

Counsel for Bert C. Roberts, Jr.

George E. Ridge
Pro Hac Vice Application Pending
COOPER RIDGE & LANTINBERG, P.A.
200 West Forsyth Street, Ste. 1200
Jacksonville, FL 32202
(904) 353-6550
(904) 353-7550 (fax)

Cory E. Friedman (CF 5946)
123 East 75th Street
New York, NY 10021
(212) 879-9751
(212) 879-2595 (fax)

Attorneys for Bert C. Roberts, Jr.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----x
:
SR INTERNATIONAL BUSINESS :
INSURANCE COMPANY, :
:
Plaintiff, :
v. :
:
MCI, INC., BERNARD EBBERS, : 04 Civ. 04567 (RCC)
SCOTT D. SULLIVAN, BETTY L. :
VINSON, TROY M. NORMAND, BUFORD : ECF CASE
YATES, JR., SUSAN G. BELL, :
CLIFFORD ALEXANDER, JR., JAMES :
C. ALLEN, JUDITH AREEN, CARL :
J. AYCOCK, RONALD R. BEAUMONT, :
FRANCESCO GALES, STILES A. :
KELLETT, JR., GORDON S. MACKLIN, :
DAVID F. MYERS, JOHN A. PORTER, :
BERT C. ROBERTS, JR., ESTATE :
OF JOHN W. SIDGMORE, LAWRENCE :
A. TUCKER, JUAN VILLALONGA, MAX :
E. BOBBITT, AND JOHN DOES 1-50, :
:
Defendants. :
:
-----x

**BERT C. ROBERTS, JR.'S MOTION
FOR REASSIGNMENT OF THIS CASE**

Pursuant to Rule 22 of the Rules for the Division of Business Among District Judges of this Court, Bert C. Roberts, Jr. moves the Court to reassign this case to the Honorable Denise L. Cote.

PRELIMINARY STATEMENT

1. The financial collapse of WorldCom, Inc. ("WorldCom") has spawned a myriad of actions against, among others, the former directors and officers of WorldCom. Those actions have been consolidated in In re WorldCom, Inc. Securities Litigation, case no. 02 Civ. 3288 (DLC), before Judge Cote. That litigation has, in turn, spawned four (4) actions in this District contesting coverage under the Directors and Officers ("D&O") policies issued to WorldCom. Three of those actions - the three filed before this action - have already been assigned to Judge Cote. Bert C. Roberts respectfully submits that this action should be assigned to Judge Cote as well, in order to have all litigation involving the D&O policies before one judge, the same judge hearing the underlying WorldCom litigation. Plaintiff SR International Business Insurance Company has agreed not to oppose this motion, and seven (7) of the other 22 named defendants in this action have consented to it.

POINT ONE: REASSIGNMENT

2. On June 17, 2004, SR International Business Insurance Company ("SR International"), one of the D&O carriers, filed this case (04 Civ. 04567) for the declaratory adjudication of an Excess Directors and Officers Policy, covering former officers and directors of WorldCom, as void *ab initio*. This is the fourth

action filed in this District involving that dispute.

3. The dispute specifically involves coverage under this policy, which insures the same acts that are the subject of litigation in In re WorldCom, Inc. Securities Litigation, case no. 02 Civ. 3288 (DLC) currently pending before Judge Cote.

4. Judge Cote currently oversees the general administration of all civil litigation related to Worldcom and has before her certain related cases which address insurance coverage issues.

5. The following is a summary of the WorldCom D&O insurance-related proceedings:

- A. On January 29, 2003, WorldCom filed an adversary proceeding against six excess D&O and blended coverage insurance carriers in the SDNY Bankruptcy Court, adv. proc. no. 03-02058 (AJG), as a matter related to the In re WorldCom, Inc. Chapter 11 proceedings, case no. 02 B 13533 (AJG).
- B. On January 28, 2003, Continental Casualty Company (defendant in the adversary proceeding) ("Continental") filed a declaratory judgment action seeking to avoid coverage in the SDNY District Court, case no. 03 Civ. 0652, which was assigned to Judge Hellerstein. On February 3, 2003, Twin City Fire Insurance (defendant in the adversary proceeding) ("Twin City") also filed a complaint seeking to avoid coverage in the SDNY District

Court, case no. 03 Civ 0758, which was assigned to Judge Baer. On June 18, 2004, both of these cases were reassigned to Judge Cote.

- C. On August 1, 2003, Bankruptcy Judge Gonzalez issued an order granting WorldCom's Motion to Enforce the Bankruptcy Code section 362 Automatic Stay against Continental and Twin City. He ordered that the automatic stay extended to these two actions, and declared those two cases void *ab initio*.
- D. Both Continental and Twin City appealed Bankruptcy Judge Gonzalez's August 1, 2003 Order to this District Court: (1) Continental's appeal filed on October 7, 2003, case no. 03 Civ. 7927, was reassigned from Judge Marrero to Judge Cote on December 11, 2003; and (2) Twin City's appeal filed on November 26, 2003, case no. 03 Civ. 9460, was reassigned from Judge Rakoff to Judge Cote on February 25, 2004. The two appeals were consolidated by Judge Cote on March 10, 2004.
- E. On May 14, 2004, Judge Gonzalez granted the motions to dismiss filed in the adversary proceeding by three of the six excess carrier defendants.
- F. On May 28, 2004, Bert C. Roberts, Jr. and Francesco Galesi (both former directors of WorldCom) filed a Motion to Withdraw the Reference to the Bankruptcy

Court, such that the adversary proceeding against the remaining three defendants would be withdrawn to this District Court.

G. Contemporaneously with his Motion to Withdraw the Reference, on May 28, 2004, Mr. Roberts filed a declaratory judgment action in the SDNY District Court, Roberts v. Associated Electric, et al., case no. 04 Civ. 4089 (DLC), which seeks defense and indemnification under the D&O policies. That action was accepted by Judge Cote as a case related to the WorldCom Securities Litigation.

H. On June 2, 2004, SR International filed a Motion to Dismiss the adversary proceeding as to it premised on Judge Gonzalez's May 14, 2004 ruling as to the three dismissed carriers.

I. On June 14, 2004, Mr. Roberts filed a Motion to Stay the Adversary Proceeding, such that no determinations would be made in the Bankruptcy Court while the Motion to Withdraw the Reference was pending before this District Court.

6. The Complaint filed herein is related to the WorldCom litigation, as it involves both the issues of insurance coverage related to the very acts asserted in the WorldCom securities litigation, and addresses the same insurance coverage issues raised in all of the above-described D&O Insurance related actions pending

before Judge Cote.

7. Related cases pending before a court or which may later be filed in the same court should be assigned at least initially, or reassigned, to the same judge in order to promote judicial economy. Reassignment here, to Judge Denise Cote, will plainly maximize judicial economy and trial efficiency and is in the best interests of justice.

POINT II: NON-OPPOSITION AND CONSENT

8. Counsel for Mr. Roberts have been authorized by counsel for plaintiff SR International to represent that plaintiff SR International will not object to reassignment of this action to Judge Cote.

9. Counsel for Mr. Roberts have been authorized to represent that Defendants, Carl Aycock, Francesco Galesi, Stiles Kellett, Gordon Macklin, John Porter, Lawrence Tucker, and MCI, Inc., in this action consent to reassignment of this action to Judge Cote.

WHEREFORE, Bert C. Roberts, Jr. moves this Court for an Order reassigning this case to the Honorable Denise L. Cote.

Dated: June 28, 2004

S/
George E. Ridge
COOPER, RIDGE & LANTINBERG, PA
Pro Hac Vice Admission Pending
200 W. Forsyth St., Ste. 1200
Jacksonville, FL 32202
(904) 353-6555
(904) 353-7550 (fax)

S/
Cory E. Friedman (CF 5946)
123 East 75th Street
New York, NY 10021
(212) 879-9751
(212) 879-2595 (fax)

Counsel for Bert C. Roberts, Jr.